

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JAMES CLIFFORD LeMASTERS, JR.,

Civil No. 09-702 DSD/AJB

Plaintiff,

v.

O R D E R

D.O.C. Commissioner JOAN FABIAN,
Commissioner of D.O.C.,

Defendant.

Based upon the Findings of Fact, Conclusions of Law, and Recommendation by United States Magistrate Judge Arthur J. Boylan dated April 17, 2009, all the files and records, and no objections having been filed to said Recommendation,

IT IS HEREBY ORDERED that:

1. Plaintiff's "Application to Proceed Without Prepayment of Fees," (Docket No. 2), is **DENIED**;
2. This action is **SUMMARILY DISMISSED** pursuant to 28 U.S.C. § 1915A(b)(1);
3. Plaintiff is required to pay the unpaid balance of the Court filing fee, namely the full \$350.00, in accordance with 28 U.S.C. § 1915(b)(2); and
4. The dismissal of this action is counted as a "strike" against Plaintiff, for purposes of 28 U.S.C. § 1915(g).

DATED: May 18, 2009

s/David S. Doty
David S. Doty, Judge
United States District Court